



Alaska Mental Health Board

ALASKA MENTAL HEALTH BOARD
ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
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March 11, 2014

Representative Pete Higgins, Chairman
House Health and Social Services Committee
Alaska State Capitol, Room 424
Juneau, Alaska 99801

Re: CSHB 214 – Mental Health Patient Grievances

Representative Higgins,

On behalf of the Alaska Mental Health Board, I would like to thank you and your staff for your continued work on HB 214. We have reviewed the committee substitute (version C, 3/7/14). It retains many of the provisions with which the Board has concerns:

1. The bill gives the Office of Administrative Hearings jurisdiction over a dispute between private parties. (*See* Sections 1-2, Section 4). It is clear from the jurisdictional statute as well as the definitions (AS. 44.64.200) that the Office of Administrative Hearings was established to hear disputes to which an executive governmental agency is a party. To expand that jurisdiction to a dispute between private parties – for which the existing judicial process is the appropriate venue – is not consistent with administrative procedures or law. It also would require additional staff capacity and expertise – and additional cost – to the Office of Administrative Hearing.

2. The bill continues to be overly broad in scope, requiring the same rigid grievance procedure of all community mental health providers and hospitals (*See* Section 3, page 1, lines 13-14) – while ignoring the primary care system which also provides mental health diagnosis and treatment (primarily through medication) services. The Board reiterates the concern that this neglects to take into account the differences in treatment milieu, the commitment to consumer driven services, and the existing requirements imposed by federal regulation, state-mandated accreditation standards, and the Division of Behavioral Health. We recommend that any rigid, statutory grievance procedure be narrowly tailored to the needs of people involuntarily committed to mental health treatment, as they are most vulnerable and thus in need of additional legal protections.

3. In CSHB214, the right to a “designated representative to act as a patient advocate” (Section 3, page 3, lines 1-2) is provided. The Board supports the right to a patient advocate, whether internal to the hospital providing mental health treatment or through an external advocacy agency like the Disability Law Center. Because “designated representative” is not defined in the bill, it is unclear as to whether this means the patient has a right to a trained patient advocate, or the patient has the right to designate any person as their representative for the purposes of the filing grievance. We encourage language that clarifies that the patient has the right to an impartial, trained patient advocate.

4. CSHB214 does not define what “natural support systems” reasonable access to which patients are given the right. The Board encourages specificity in language purporting to extend a legal right to a class of citizens.

5. The Board believes that the grievance procedure provided in Section 4 of the bill will divert limited financial resources from much-needed treatment services to duplicative administrative procedures. As we have previously provided to you and the Committee, over the past five years the Board has heard from hundreds of constituents about the gaps and needs of the behavioral health system. The vast majority of those comments from our constituents have been about the need for expanded mental health treatment capacity throughout the state. In this era of declining revenue and funding available for public health care services, the Board cannot support a bill that would spend money on greater government oversight rather than direct services for people experiencing mental health disorders.

6. The bill continues to equate crimes against people experiencing mental illness as matters for an administrative grievance rather than matters for law enforcement. The Board reiterates that this contributes to stigmatization of people experiencing mental illness by minimizing the seriousness of crimes perpetrated against them.

7. The timeline for resolution of grievances provided in CSHB214 (*see* Section 4, page 4, lines 18-25) is reasonable only in the hospital setting while the person is committed to treatment or soon after discharge. To require a mental health treatment provider to answer a grievance within five calendar days of filing when the grievant can file a grievance a year after the incident giving rise to the controversy is neither reasonable nor equitable.

8. The impact of the repeal of AS 47.30.660(b)(13) could result in the loss of the hospital-based mental health treatment in Fairbanks, Juneau, and Anchorage. This section allows the Department of Health and Social Services to coordinate hospital-based psychiatric treatment with health care organizations so that Alaskans can be served as close to home as possible, as quickly as possible. The services offered by Fairbanks Memorial Hospital and Bartlett regional Hospital help prevent unnecessary and often traumatic transfers to Alaska Psychiatric Institute (API), providing timely and accessible care to people and alleviating the census pressures at API. Loss of these mental health units will impair access to quality mental health services during psychiatric emergencies.

In closing, the Alaska Mental Health Board is grateful for your strong advocacy on behalf of Alaska’s most vulnerable citizens. We appreciate the effort you and your staff have made to include stakeholders and consumers in the dialogue about how to improve our mental health patient grievance procedures.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Burkhart", with a long horizontal flourish extending to the right.

J. Kate Burkhart

Executive Director

cc: Brenda Moore, Chairman AMHB